

ANTHONY CARTER, SR.,

Plaintiff

vs.

MARMON KEYSTONE.

Defendant.

Civil Action No. 05-311KAJ

Honorable Kent A. Jordan

MOTION OF RIGHT OF APPEAL

In compliance with the request to dismiss my complaint on the grounds that a copy of said complaint did not accompany the request for waiver. See McCue AFF. At 3. I am attaching the requested copy,

On March 8, 2004, a copy of the complaint was filed with the State of Delaware. See charge of Discrimination EEOC 17CA400331. A copy was subsequently sent to Marmon Keystone. I regret that I was not aware that another copy of the complaint should have accompanied the request for waiver until the affidavit was received on Tuesday, November 22, 2005.

I. RELEVANT WORK HISTORY

I am a black male individual who began working with Respondent on 5/2/03 as a Warehouse Worker. As a result my good work performance, I was transferred from McConnellsburg, PA to the New Castle location by Dave Levenson, Oper. Mgr. I performed my duties and relocated as instructed, however after starting the New Castle location, Mr. Levenson subjected me to continuous write-ups, denied me opportunity for eligible training and influenced my ultimate termination. Although I was hired at a base rate and promised an increase, as Andrew , last name unknown (white) was, Respondent changed the policy to exclude me from a training opportunity. In addition, Mr. Levenson would instruct my supervisor, Tim Slaughter (black) to direct myself and Chris Fountain (black) to perform menial jobs while the white Warehouse men would perform regular or lighter jobs. After

experiencing my work being scrutinized and racial harassment. I reported to HR on 1/26/04 and 1/28/04. HR's investigation of my complaints were not an adequate depiction of the events and all parties were not investigated. As a result, on 2/13/04, I was accused of being involved a minor incident, requested to take a drug test by Mr. Levenson and required to wait until 12:00 midnight to complete the drug test. Although my test was negative and the crane used during the incident was deemed unsafe, I was still terminated by Respondent.

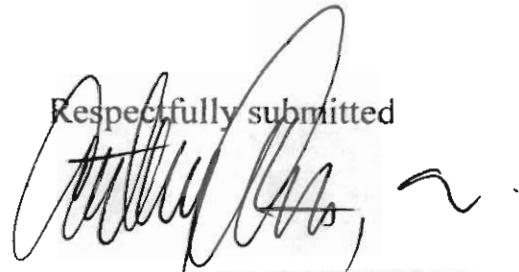
II. ARGUMENT

I believe that I have been discriminated and retaliated against in violation of the Title VII of the Civil Rights Act of 1964, as amended and the Delaware Discrimination in Employment Act based on my race (black) because: 1. After being selected as a top performer by Mr. Levenson to transfer from the PA location, Respondent denied me advancement and training opportunities like Stan Grzybowski(white), Dave Stanford(white). 2. Respondent instructed myself and Chris Fountain(black) to perform menial duties while our white co-workers perform regular or light work. 3. Respondent subjected me to extreme drug test requirements after an alleged incident by requesting me to wait until 12:00 midnight on Friday night to take a drug test while I cared for my sons (I completed the drug test about 10:00p.m. as instructed). 4. After I reported my hostile work conditions to HR, I was accused (1 week later) of being involved in an incident which had a crane that did not have the proper equipment and did not complete a final inspection.

III. CONCLUSION

Respondent continuously subjected me to disparate treatment, hostile working conditions and ultimate termination during my tenure and after I complained about harassment and racial discrimination.

Respectfully submitted



ANTHONY CARTER SR.
28 Monticello Blvd
New Castle, DE 19720

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Right to Appeal was served November 28,2005, via first-class mail. Postage prepaid, upon the following:

s/Bayard J. Snyder
BAYARD J.SNYDER,ESQUIRE
300 Delaware Avenue, Suite 1014
P.O. Box 90
Wilmington, DE 19899

Marmon/Keystone
LINDA D MCCUE, VP HR
P.O. Box 992
Butler, PA 16003-0992

Anthony Carter SR.

DATED November 28,2005